

**Special Courts Committee
Judicial Conference of Indiana**

August 5, 2005

Minutes

1. Members present. The following members of the committee were present: Glenn G. Hancock, George B. Hoffman, Richard L. Tandy, and Peggy L. Quint Lohorn, Chair.
2. Staff present. Michelle C. Goodman provided the committee with staff assistance.
3. Approval of Minutes. The Committee approved the minutes from the June 17, 2005 meeting.
4. Traffic, Misdemeanor, Small Claims Benchbook. The Committee continued its review of Section 2.00. The following changes were made:
 - Page 3 (A)(5) – The Committee decided to keep “in”
 - Trial Checklist – The Committee reviewed the draft prepared by Michelle. The Committee asked that a note be added on page 2 that items 11 & 12 could be reversed in order. On page 3 the Committee approved the suggested deletion from item 15.
 - Oaths – The Committee decided to keep the oath for interpreters in the materials.
 - Sentencing – Under mandatory jail terms for certain offenses, the Committee added IC 35-50-2-10(q) on mandatory time for third OWI. The Committee asked Michelle to check recent legislation on Class D felonies regarding 6 months non-suspendable on the suspension of sentence – probation section. The Committee struck the reference to IJC sentencing alternatives.
 - The Committee asked that the Scope Note headings be deleted from the manual and label the section accordingly.
 - Dialogue for accepting plea – The Committee reviewed the materials from the City and Town Court Manual and Criminal Benchbook. On page 4, the Committee decided to label (F) plea without agreement (in bold) and add a new (G) for plea with agreement (in bold). The remaining items in this section will be relabeled accordingly. The new (G) would be the simple advisement 50.70.300 without the last paragraph referring to the PSI and a modification to (h) indicating the court “may” order a PSI.
 - On page 27 item (1) under “upon default in making payments” is moved to the end of the draft under miscellaneous.

The Committee then reviewed Section 4.07 on Small Claims forms and made the following revisions:

- F-1 A will be replaced by the Montgomery Co. form
- F-1 B will be deleted
- F-2 and F-3 forms will be deleted
- F-6 will be replaced by the Johnson Co. form
- F-7 will be amended to include “with prejudice” to the document

- F-8 will be replaced by the Henry Co. form with the language for #5 from the Rush Co. form
- F-10 will be replaced by the Montgomery Co. form and add the defendant's address to the form
- F-11 delete the SSN; delete language after "withheld"; add defendant's address
- F-12 will be deleted
- F-14 will be replaced by the Jay Co. form
- F-15 will be replaced by the Jay Co. form; delete SSN
- F-16 will be replaced by the Jay Co. form
- Add Petition/Order – Rule to Show Cause – Rush Co. forms merged into one form
- F-19 will be replaced by the Henry Co. form
- F-20 will be amended to add "Defendant further states that the above Plaintiff(s) was/were duly listed on Defendant's Petition for Bankruptcy."
- F-21 will be deleted
- F-22 (B) will be deleted
- F-23 will be replaced by the Johnson Co. form
- F-24 will be replaced by the Johnson Co. form
- F-25 will be replaced by the Johnson Co. form
- F-26 will be deleted
- F-28 will be amended to reflect the Judge's signature and remove other references to the clerk; add "and or damages" at the end of the order to appear
- F-29-F-34 will be deleted

The Committee plans to finish reviewing the remaining sections for revisions at the next meeting:

- Section 1.00 Traffic & Infractions
- Section 4.05 Collection of Judgment

5. Other business. The Committee discussed the Civil and Small Claims Service fee and whether it applied to garnishee defendants and determined that this issue needs to be resolved by the legislature. Other issues will be added to the agenda for next meeting.
6. Next Meeting. The next meeting will be held on Friday, November 4, 2005 at 11 a.m. at the Judicial Center.

Respectfully Submitted,

Michelle C. Goodman